IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 943 (M/S) OF 2006
(Stay Application No.9130 of 2006)

1. Amrik Singh S/o Sri Lal Singh
2. Iquabla Singh S/o Sri Lal Singh
3. Rishi Pal Singh S/o Sri Lal Singh
R/o Village – Rampura Tehsil – Sitarganj,
District – Udham Singh Nagar. .....Petitioners

Versus

1. Addl. Chief Revenue Commissioner, Circuit Court, Nainital.
2. Upper Commissioner (Administration), Kumaon Mandal, Nainital District Nainital.
3. Asstt. Collector/Pargana Magistrate, Khatima, District Udham Singh Nagar.
4. Sri Suresh Babu S/o Sri Laximi Narayan.
5. Naresh Babu S/o Sri Laximi Narayan.
6. Satish Babu S/o Sri Laximi Narayan,
7. Ajayab Singh S/o Gurubachan Singh
All are R/o Village – Rampura Tehsil – Sitarganj,
District – Udham Singh Nagar ..... Respondents

21.07.2006

Sri B.S. Khanka, Counsel for the petitioners.
Standing Counsel for the respondent no.1.

Hon'ble Rajesh Tandon, J.

Heard Sri B.S. Khanka, Counsel for the petitioner and standing Counsel for the respondent no.1.

By the present writ petition, the petitioners have prayed for setting aside/quashing the order dated 31.08.1989, 30.06.1999 & 21.04.2006 passed by the respondents and also directed the respondent no.2 to re-examine the case after taking measurement of the land.

Briefly stated, respondent No. 4 to 7 have filed an application before the respondent no.3 under section 41 of Land Revenue Act for measurement of the their plot.

According to the petitioner, the respondent no.3 has directed the Survey Amin for measurement of the said plot with out fixing the center point and submitted the report on 06.03.1997. The

petitioner have filed the objection against the survey report but the trial court on the ground that survey amin did not made any fixed point for measurement and further no information was sent to the petitioner at the time of measurement and the same was decided against the petitioner on 31.08.1998. Petitioners have challenged the order dated 31.08.1998 by preferring the appeal before the Upper Commissioner (ADM), Kumaon Mandal, Nainital, the same was rejected vide order dated 30.06.1999.

Petitioners have submitted that they have filed the revision before the Addl. Chief Revenue Commissioner, Circuit Court, Nainital and the same was rejected vide order dated 21.04.2006.

Counsel of the petitioners has submitted that Survey Amin has not informed at time of the measurement and they have also not given any opportunity to cross examine the Amin in the trial court. The grievance of the petitioners is that no notices were served upon them and the entire proceedings are exparte.

In view of the above, the matter is sent back to Chief Revenue Commissioner who shall decide the matter within a period of six weeks from the filing of the certified copy of the order. If required, fresh survey report may be prepared giving the opportunity to the petitioner. Till the disposal of the application, both the parties are directed to maintain status quo.

Subject to the aforesaid observation, writ petition is disposed of. No order as to costs.

21.07.2006 **(Rajesh Tandon, J.)**

Jain